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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,276	02/24/2000	Takaaki Nagao	PM266298	5207

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EXAMINER

TRAN, LOUIS B

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

Office Action Summary

Application No.

09/512,276

Applicant(s)

NAGAO ET AL.

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-16 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This action is in response to applicant's amendment, Paper No. 18, received on 1/31/2003. Applicant's cancellation of claim 1 in Paper No. 15 is acknowledged. Examiner has withdrawn the rejection of Paper No. 16.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon (4,560,069) in view of Curry (4,267,928).

Simon discloses the invention substantially as claimed including a method of packing a glass base material comprising putting said glass base material into a plastic bag as in Figure 2 and packaging glass base material into a cylindrical container, which container is rigid enough to withstand a load from said glass base material as described in column 4, line 5 and shown in Figure 1 to be a metal can for the purpose of protection from mechanical shock as in column 1, line 10. With respect to claim 34, said cylindrical container is made of at least one material selected from the group consisting of cardboard, plastic, cardboard-plastic, wood and metal but does not expressly show packing glass base material having a cylindrical shape over its whole length, which has been placed into a plastic bag into a cylindrical container.

However, Curry Jr. teaches the method of packing glass base material, having a cylindrical shape over its whole length into a bag and cylindrical container as in column 6, lines 35-44 for the purpose of handling fragile items.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Simon with a method of packing glass into a bag and then into a cylindrical container in order to protect the material from outside shock as in column 2, lines 17-35.

3. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simon (4,560,069) in view of Curry (4,267,928) in further view of Harmony (4,268,567).

The modified method of Simon discloses the invention substantially as claimed including packaging said glass base material with said air packing material into a cylindrical container, which container is rigid enough to withstand a load from said glass base material, capping both ends of said cylindrical container as in Curry as item 11 in Figure 1, which packs said glass base material, by caps (as in claim 6) but does not expressly teach rolling up said glass base material having a cylindrical shape over its whole length with air packing material that contains air inside.

However, Harmony teaches the method of rolling up a cylindrical object having a cylindrical shape over its whole length with air packing material 12 that contains air inside for the purpose of having a packaging material that is economically stored while not in use - flat packaging material versus preformed material as described in column 1, line 39.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Simon with a rolled air-packaging layer instead of a preformed layer in order to economically utilize material that does not require a larger volume to store.

With respect to claim 4, the modified method of Simon is disclosed as above but does not teach packing with three layer of air packing material but does teach one layer.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to wrap the product three times instead of one, since it has been held that mere duplication of the essential working parts of a method involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

Moreover, it is well known and practiced to wrap cylindrical items with air packaging material since this method is widely practiced in ordinary gift wrapping and shipping practices.

With respect to claim 5, the modified method steps also discloses the method steps of packing a glass base material in a cylindrical container that has a larger diameter than the glass contained as seen in Figure 1 of Simon.

Although Simon does not show the diameter being explicitly 10 mm larger than the container, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make a clearance of 10 mm since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

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4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon (4,560,069) in view of Curry (4,267,928) and Harmony (4,268,567) and in further view of Dhority et al. (5,236,088).

The modified method of Simon discloses the invention substantially as claimed as described above but does not show a method of packing that provides an inside cap which has a shape that can fit with a shape of an end of a glass material on a space between glass and cap.

However, Dhority et al. teaches an inside cap 11 having a shape that can fit with a shape of said glass material in a space between glass and cap for the purpose of cushioning and supporting the contents of the container as in column 4, line 8.

Therefore, it would have been obvious for one having ordinary skill in the art to provide the modified steps with a shape that can fit with a shape of said glass material in a space between glass and cap in order to cushion and support fragile material.

Conclusion

5. Applicant's remarks have been fully considered but are deemed moot in view of the new grounds of rejection.

To further support examiner's position that the term "glass base material" can be interpreted to represent standard glassware, the examiner has provided Kawamura (JP 409249425) as further evidenced by the interchangeable use of the term "glass base material" with "glassware".

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

lbt
February 11, 2003